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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/934,552      | 08/23/2001  | Rainer Gadow         | 225/48167CO         | 9621             |

7590 01/29/2004

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| EXAMINER |
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DIXON, MERRICK L

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| ART UNIT | PAPER NUMBER |
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1774

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/934,552

Applicant(s)

GADOW ET AL.

cb9

Examiner

Merrick Dixon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 36-82 is/are pending in the application.
- 4a) Of the above claim(s) 36-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 48-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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Applicants' election of claims 48-82, in paper no.8, is acknowledged. The restriction was made with traverse.

The traversal is on the grounds that the subject matter of both inventions is such that they should be examined and allowed in a single application. This is not found persuasive because each invention will indeed be classified separately and additionally, it would be a great burden to the office to search the separate and additional classes in which the inventions would be classified, separately.

The requirement is still deemed to be proper and is therefore made FINAL.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 48-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rauscher et al(6193928) alone.

The cited reference teaches the basic claimed invention including a process for making a fiber-reinforced composite ceramic comprising high-temperature resistant fibers reaction-bonded to a matrix comprising the steps of producing a green body, pyrolysing same under specific conditions to form a porous body and finally infiltrating the resulting porous body with a silicon melt - col 3, lines 8-43; col 4, lines 10-46; see entire reference. it is submitted that it would have been obvious to one of ordinary skill in the , at the time the invention is made, to manipulate the temperature , as claimed, during the pyrolysing step, if not taught by the reference. such a manipulation would have been further obvious in the absence of unexpected results. Concerning claims 64-67 , 73 and 74, it is submitted it would have been obvious to perform such notorious well known operations to form the granulated material, including spraying binder material thereon, if not taught and in the absence of unexpected results. Concerning claims 75 and 76, it

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is submitted that it would have been obvious to employ such claimed material during the patented invention, particularly as such limitations are directed to article limitations , which is of no patentable consequences to the instant question for patentability. Concerning claims 68 and 69, the cited reference teaches the claimed limitation in col 3, lines 23-29. Concerning claims 70-72, the cited reference teaches the claimed limitations – see col 3, lines 8-13. Concerning claims 62,63,77,78, the cited reference teaches the claimed limitations in col 3, lines 9-35. Concerning claim 79, the cited reference teaches the claimed limitations in col 3, lines 1-15. Concerning claim 80, the cited reference teaches the claimed limitations in col 4, lines 25-31. concerning claims 81-82, the cited reference teaches the claimed limitations in col 4, lines 1-11.

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Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can now do so by using the Examiner Dixon's personal fax number at 571-273-1520. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 ( November 15, 1989). **NOTE: All facsimiles sent to the examiner's personal fax number should be in draft-forms and will be treated as informal. Same facsimiles will not be entered in the related applications unless otherwise noted by the examiner.**

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Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays to Thursdays, between 12 noon and 8 PM, eastern time .



Merrick Dixon

Primary Examiner

Group 1700